

**Federal Defenders  
OF NEW YORK, INC.**

Southern District  
52 Duane Street-10th Floor, New York, NY 10007  
Tel: (212) 417-8700 Fax: (212) 571-0392

David E. Patton  
*Executive Director*

*Southern District of New York*  
Jennifer L. Brown  
*Attorney-in-Charge*

February 1, 2021

By ECF

Hon. Richard M. Berman  
United States District Judge  
Southern District of New York

**Re: United States v. Mitchell McPhee, 19 Cr. 745 (RMB)**

Dear Judge Berman:

I write on behalf of my client, Mitchell McPhee, to request his temporary release from the MCC to attend his uncle's funeral this Friday, February 5, 2021.<sup>1</sup> Mr. McPhee's uncle, Michael Williams, with whom Mr. McPhee was exceptionally close, passed away last week. He requests the opportunity to be allowed to grieve with his family, and to be present when his uncle is put to rest. I therefore ask that he be released on an 8-hour bond secured by his close friend, Tiffany Rodriguez (one of the cosigners on his original bond), who will personally escort Mr. McPhee to and from the MCC and during the services. The Government opposes this request.

The Bail Reform Act provides that a "judicial officer may... permit the temporary release of [a] person ... to the extent that the judicial officer determines such release to be necessary for preparation of the person's defense *or for another compelling reason.*" 18 U.S.C. § 3142(i) (emphasis added). Accordingly, other judges have granted temporary release for detained individuals to attend family members' funerals. *See, e.g., United States v. Dunn*, 11 Cr. 638 (SAS) (S.D.N.Y) (releasing defendant on a \$30,000 personal recognizance bond to allow him to attend brother's memorial service); *United States v. Summers*, 09 Cr. 807 (DLC) (S.D.N.Y.) (releasing defendant to attend partner's funeral).

The viewing and funeral are scheduled for February 5, 2021, at First Avenue Funeral Services, 349 E. 116th Street, New York, NY. The viewing is at 2:30 p.m., and the funeral

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<sup>1</sup> As background, Mr. McPhee is detained pending trial on low-level narcotics offenses involving allegations of hand-to-hand sales of small amounts of crack. He had been released on a bond earlier in the case, but was detained on October 6, 2020, after committing violations of his release conditions. He has been in custody at the MCC since.

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immediately follows from 3:30 to 5:00 p.m. Mr. McPhee proposes that the Court permit his release for that day only, allowing sufficient time for him to attend the services and then return to the MCC immediately afterward.

Due to the time sensitive nature of this request, we respectfully request that the Court grant release or afford us the opportunity to be heard as soon as possible.

Sincerely,

/s/ Jonathan Marvinny

Jonathan Marvinny  
Assistant Federal Defender  
212.417.8792  
[jonathan\\_marvinny@fd.org](mailto:jonathan_marvinny@fd.org)

cc: Louis A. Pellegrino, Esq. (by ECF)

Application respectfully denied.

SO ORDERED:  
Date: 2/2/2021

  
Richard M. Berman, U.S.D.J.